plaintiff has had his day in court and has failed to produce sufficient evidence to raise a jury question. The principal case, then, seems clearly correct. *Hay* v. *City of Baraboo*, 127 Wis. 1, 105 N. W. 654.

TRUSTS — RESULTING TRUST — CONVEYANCE TO HUSBAND FOR CONSIDERATION FURNISHED BY WIFE. — A husband purchased land with money advanced by his wife for that purpose from her separate estate, taking title in himself. There appears to have been no agreement as to which should have title, nor does it appear that the wife knew that title was held by the husband until several years afterward, when he deserted her, and she filed her bill to have a trust declared. *Held*, a trust will be enforced. *Orr* v. *Orr*, 70 Legal Int. 684 (Pa. C. P., Delaware Co., Oct. 1913).

Where land is conveyed to A. upon consideration furnished by B., a stranger, a trust is presumed to result in favor of B. *Ex parte Vernon*, 2 P. Wms. 549. However, where A. is B.'s wife, for whom it is his duty to provide, the consideration furnished is presumed to be an advancement. *McCartney* v. *Fletcher*, 11 App. Cas. (D. C.) 1; *Dunbar* v. *Dunbar*, [1909] 2 Ch. 639. The same presumption applies in Pennsylvania when the person furnishing the consideration is the wife. *McCormick* v. *Cook*, 199 Pa. 631, 49 Atl. 238. Upon this presumption the result of the principal case is perhaps open to criticism, for the evidence relied on to rebut it is purely negative. By weight of authority, however, consideration furnished by a wife for a conveyance to her husband gives rise to the same presumption of a resulting trust as in the case of strangers. *Martin* v. *Remington*, 100 Wis. 540, 76 N. W. 614; *Matador Land & Cattle Co.* v. *Cooper*, 39 Tex. Civ. App. 99, 87 S. W. 235. It is submitted that the latter view is correct, for in the absence of a duty to provide, the reason for presuming a gift fails. Moreover, the ascendency which the marital relation gives to the husband renders such protection peculiarly necessary to the wife. For a criticism of these presumptions with regard to resulting trusts and a discussion of the effect of statutes relating thereto, see article by James Barr Ames, 20 HARV. L. REV. 555–557.

BOOK REVIEWS.

A TREATISE ON THE LAW OF PUBLIC UTILITIES. By Oscar L. Pond. Indianapolis: The Bobbs-Merrill Company. 1913. pp. liv, 954.

In this treatise on the special law of municipal utilities the author undertakes the ambitious task of ascertaining the nature of the municipal corporation as expressed in the law and in the construction which the courts have given to the powers conferred upon the municipality by the state, and also of discovering what limitations are placed on municipal activity by our constitutions as construed by the courts. He broadens the inquiry to discover how far the judicial construction of the law with regard to the taxation and sale of municipal public utilities facilitates or impedes the cities in the discharge of these new duties imposed by the ownership and operation or the proper regulation and control of municipal public utilities. And he enters into the discussion of what are the most efficient methods of regulation and control available to the state or municipality over the operation by private capital of municipal public utilities. Indeed, he shows throughout that he appreciates that unless the strict regulation by governmental authorities which we are trying out proves effectual, we shall be driven perforce to a further extension of governmental control to the point of municipal ownership, already reached in many communities.

The result of modern conditions and of the inventions of our era which have constantly tended to bring about a further development of common service for the whole community has been the general establishment of great corporations which have had granted to them if not legal monopoly at least some special legal privileges. Indeed, we doubtless would have had these local monopolies as a result of the circumstances surrounding the supplying of these public necessities whether any special privileges were granted or not. These public service companies are certainly the most considerable factor in modern commercial affairs. The positive law of the public calling is the only protection that the public have in a situation such as this, where there is no competition among the sellers to operate in its favor. So much has our law been permeated with the theory of *laissez faire*, that the admission has been made with much hesitation that governmental control is ever necessary. But the modern conclusion, after some bitter experience, is that private control can be allowed where the conditions are those of virtual monopoly, only subject to strict regulation by the public authorities. We are now ready to go any length that is necessary to meet this situation. And the law which we are working out for the proper conduct of these utilities will be as useful in holding the public authorities themselves to a proper standard, as it is proving itself to be in keeping the private corporations engaged in public service up to the higher mark we are setting to-day.

As the problems of our modern civlization are most acute in the complex conditions which are to be found in our cities, this necessity for the extension of the sphere of governmental activity has naturally assumed the form of a demand for the municipal ownership and operation, or the adequate regulation and control, of what have come to be known as municipal public utilities.

The author is fundamentally in the right in assuming that the general law of public service applies equally well whether the community service is left in private hands or taken over by the governmental authorities. In fact the public authorities need expert regulation almost as much as the private managements, and the same method should be employed in the regulation of both. We should have a state commission duly empowered to deal with the municipal corporations in the conduct of their utilities along with the private corporations rendering the same service in other communities. This has not been seen clearly as yet, the city authorities very generally demanding the right to decide what is best for their people. But here as in other instances of uncontrolled management, there is a tendency to ignore just claims where there are conflicting interests, such as the respective rights of taxpayers and ratepayers. And public officials no less than private managers need the expert guidance of regulating bodies having a broader view than their own. It is well, therefore, to have such a book as this establishing by statements directly transposed from the comparatively few existing decisions, the essential unity of the law governing public utilities, whatever form that service may take without regard to the character of the organization rendering it. B. W.

THE RATIONALE OF PUNISHMENT. By Heinrich Oppenheimer. London: University of London Press. 1913. pp. vi, 327.

Not the least important aspect of conservation is the conservation of social institutions. On of the oldest of social institutions is punishment of crime. But many are arguing that the punishment of crime by the state is a relic of barbarism which should be eliminated in the society of to-day. For instance, an eminent member of the medical profession has told us recently that "The